

NTSB Order No. EA-4469

Adopted by the NATIONAL TRANSPORTATION SAFETY BOARD
at its office in Washington, D.C.
on the 17th day of July, 1996

Docket SE-13943

Under NTSB Rule 821.64(b), "[n]o petition for stay pending judicial review will be entertained if it is **received** by the Board after the effective date of the Board's order."¹ (Emphasis added.) Respondent's request was mailed on May 28, 1996, but was not received by the Board until June 3, 1996. No explanation was offered for the late filing and none is apparent to us. Therefore, as stated in NTSB Rule 821.64(b), we will not entertain the request for stay.²

ACCORDINGLY, IT IS ORDERED THAT:

Respondent's request for stay is denied.

HALL, Chairman, FRANCIS, Vice Chairman, HAMMERSCHMIDT, GOGLIA, and BLACK, Members of the Board, concurred in the above order.

¹ Rule 821.64(b) further states:

If a stay action is to be timely, any petition must be filed sufficiently in advance of the effective date of the Board's order to allow for the possibility of a reply and to allow for Board review.

49 C.F.R. § 821.64(b).

² Nevertheless, we note that, given our findings of serious violations by respondent, a stay would have been contrary to the interests of aviation safety and would not have been granted. While we generally grant stays of Board orders pending judicial review when the suspension affirmed is for a period of less than six months, we invariably deny stays in cases involving certificate revocation because revocation is based on a conclusion that the airman lacks the qualifications required of a certificate holder. Cases involving suspensions of six months or more are evaluated on a case-by-case basis, considering the seriousness of the violations. See, e.g., Administrator v. Powell, NTSB Order EA-4328 (1995); Administrator v. Ciampa, NTSB Order EA-4291 (1994).